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Attorney for Anthony Rynders

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DOMAIN SERENE VINEYARDS
AND WINERY, INC.

Plaintiff,

v.

ANTHONY RYNDERS,

Defendant.

Case CV-09-795-KI

F.R.C.P. 12(b) MOTION TO
DISMISS

ORAL ARGUMENT REQUESTED

L.R. 7.1 (A) CERTIFICATION

The undersigned certifies that the parties have made good faith effort through electronic correspondence and telephone contact to resolve the matters disputed herein and that Plaintiff has advised that it will object to this Motion.

L.R. 7.1(E) QUESTION TO BE DECIDED

Whether Count 1 of the Plaintiff's Complaint brought under the Computer Fraud and Abuse Act should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted, and whether the remaining causes of action should be dismissed pursuant to Rule 12(b)(1) for lack of subject matter jurisdiction.

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MOTION

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Anthony Rynders respectfully request that Count I of the Complaint be dismissed for failure to allege sufficient facts to support a claim under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030; the only basis for federal jurisdiction in this case. In addition, Defendant respectfully submits that the Court should decline to exercise supplemental jurisdiction over the remaining state law claims presented in Counts II through IV and dismiss the Complaint in its entirety.

WHEREFORE, for reasons presented in the accompanying memorandum and the declaration of Anthony Rynders submitted in support hereof, Defendant Anthony Rynders respectfully requests that this Motion be granted.

DATED this 19th day of August, 2009.

Respectfully submitted,

/s/ Jacob Wieselman
Jacob Wieselman, OSB 05100
Attorney for Anthony Rynders

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ORDER

Defendant's *F.R.C.P. 12(b) Motion To Dismiss*, having come to this Court, after consideration of same, it is hereby:

GRANTED and ordered that Plaintiff's Complaint be dismissed.

SO ORDERED this ____ day of _____, 2009.

The Honorable Garr M. King USDJ

Presented by:
Jacob Wieselman, OSB 05100
Attorney for Anthony Rynders